

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOSE GARCIA,

Plaintiff,

v.

No. CIV 13-0541 MCA/LAM

QUAY COUNTY JAIL,
GCCF/GEO,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

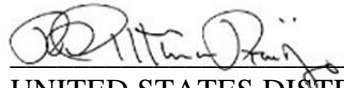
This matter is before the Court on Plaintiff's Motion to Show Cause (Doc. 18) filed on July 28, 2014. The Court will deny the motion as moot and will dismiss his complaint with prejudice.

As noted in the previous order, on October 22, 2013, the Court had entered a non-final order dismissing Plaintiff's claims against the named entity Defendants, with leave to amend and name the individuals who allegedly denied him medical treatment. Plaintiff then filed his first motion to reconsider (Doc. 13), alleging that officials refused to provide names of treating medical staff or medical records, and thus he could not identify responsible parties. The Court denied the motion and allowed Plaintiff additional time "to file an amended complaint containing appropriate factual allegations and identifying individuals who have denied him necessary medical treatment."

As also previously noted, rather than filing an amended complaint, Plaintiff filed his second motion to reconsider (Doc. 16), naming three individual Defendants. That motion ascribed "time[s] of issue" ranging from 2004 to 2007. Plaintiff filed his complaint in 2013, and thus the latest "time of issue" pre-dated his complaint by approximately six years. It appears that Plaintiff's § 1983 claims are barred by the applicable three-year limitations period. *See Garcia v. Wilson*, 731 F.2d 640, 651 (10th Cir. 1984), *aff'd*, 471 U.S. 261, 280 (1985). The Court again

denied reconsideration and allowed Plaintiff additional time to present any “meritorious tolling issues, or . . . to be [otherwise] heard on the issue,” *Vasquez Arroyo v. Starks*, 589 F.3d 1091, 1097 (10th Cir. 2009) (citing *Abbas v. Lt. Dixon*, 480 F.3d 636, 640 (2d Cir. 2007) (applying *Jones v. Bock*, 549 U.S. 199, 215-16 (2007))), thereby showing cause why his complaint should not be dismissed as barred by the applicable statute of limitations. Plaintiff then filed his Motion to Show Cause but makes no showing why his complaint is not barred by the statute of limitations. The Court will dismiss the complaint.

IT IS THEREFORE ORDERED that Plaintiff’s Complaint is DISMISSED as untimely filed, pending motions are DENIED as moot, and judgment will be entered.


UNITED STATES DISTRICT JUDGE